

REMARKS

Status of the Claims

Claims 20-37 are pending in the application. Claim 20 is amended. No new matter is added by this amendment.

Summary of Rejections

In the present Office Action, claims 20-35 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 4,177,153 to Lowe ("Lowe") in view of U.S. Patent No. 4,795,583 to Papay ("Papay") and U.S. Patent No. 6,844,301 to Field et al. ("Field"). Claim 36 is rejected under 35 U.S.C. 103(a) as allegedly being obvious over Lowe in view of Papay and Field as applied to claims 20-35, and further in view of U.S. Patent No. 5,344,579 to Ohtani et al. ("Ohtani"). Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe in view of Papay and Field as applied to claims 20-35, and further in view of U.S. Patent No. 6,225,266 to Watts et al. ("Watts").

All rejections are respectfully traversed. Reconsideration and allowance of claims 20-37 are respectfully requested in view of the previous remarks made in the response filed on April 7, 2010 and the 132 Declaration filed therewith, the present remarks and claim amendments, and the presently filed Declaration.

In the Response to Arguments section of the outstanding Office Action, the Examiner stated that "the applicant has demonstrated unexpectedly superior friction durability for the case where the alkyl substituents in the friction modifier are a methyl group and two C12-14 alkyl groups..." Further, he stated that "claim 20 allows for the friction modifier to include non-alkyl substituents, short-chain substituents with 1 to 4 carbon atoms, and long-chain substituents with 8 to 30 carbon atoms. Applicant has therefore not demonstrated unexpected results fully commensurate with the claims."

As a result of a teleconference with the Examiner, in order to remedy the concerns of the Examiner and in order to provide data commensurate in scope with the claims, it was agreed that the Applicant would provide data directed to an n-methyl dioctyl amine. In the attached 132 Declaration signed by Lee Saathoff, eight transmission fluid formulations were tested in the LFW-1 friction test (explained in detail at page 15 of the present specification). The inventive samples ranged from C8 to C18. In particular, two comparative example fluids (Ex. 1 and 2) containing a tertiary amine having two methyl (C1) groups and one octadecyl (C18) group were tested in an amount of 1 and 5 wt% of the tertiary amine. Six inventive fluids (Ex. 3 - 8) were also tested each in an amount of 1 and 5 wt% of the tertiary amine. Examples 3 and 4 contained a tertiary amine having one methyl (C1) group and two octyl (C8) groups. Examples 5 and 6 contained a tertiary amine having one methyl (C1) group and two decyl (C10) groups. Examples 7 and 8 contained a tertiary amine having one methyl (C1) group and two octadecyl (C18) groups. Each of fluids showed a decrease in friction on aging of oil as demonstrated by a reduction of the static to dynamic ratio.

Accordingly, there is a difference between the tertiary amines, and the selection of a tertiary amine as defined in the present claims does bring about an unexpected technical effect. And this technical effect is realized over the claimed wt% range and claimed carbon range.

Further, claim 20 has been amended to cancel non-alkyl substituents. In view of the foregoing remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

FEES

Please charge Deposit Account No. 12-2355 in the amount of \$1110.00 (Fee for three month extension of time). The undersigned believes that there are no additional fees, other than the fees stated above, associated with this filing. However, if the calculations are incorrect, the Commissioner is hereby authorized to charge any deficiencies in fees or credit any overpayment associated with this communication to Deposit Account No. 12-2355. Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 12-2355.

Respectfully submitted,
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